



[4830-01-p]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-119514-15]

RIN 1545-BM80

Exclusion of Foreign Currency Gain or Loss Related to Business Needs from Foreign Personal Holding Company Income; Mark-to-Market Method of Accounting for Section 988 Transactions; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking; correction.

SUMMARY: This document contains corrections to the proposed regulations (REG-119514-15) that were published in the Federal Register on Tuesday, December 19, 2017. The proposed regulations provide guidance on the treatment of foreign currency gain or loss of a controlled foreign corporation (CFC) under the business needs exclusion from foreign personal holding company income (FPHCI). The proposed regulations also provide an election for a taxpayer to use a mark-to-market method of accounting for foreign currency gain or loss attributable to section 988 transactions. In addition, the proposed regulations permit the controlling United States shareholders of a CFC to automatically revoke certain elections concerning the treatment of foreign currency gain or loss.

DATES: Written or electronic comments and requests for a public hearing, for the notice of proposed rulemaking at 82 FR 60135, December 19, 2017, are still being accepted and must be received by March 19, 2018.

ADDRESSES: Send submissions to CC:PA:LPD:PR (REG–119514–15), Room 5203, Internal Revenue Service, P.O.Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8a.m. and 4 p.m. to CC:PA:LPD:PR (REG–119514-15), Courier's desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, or sent electronically, via the Federal eRulemaking Portal at *www.regulations.gov* (IRS REG–119514–15).

FOR FURTHER INFORMATION CONTACT: Jeffery G. Mitchell, (202) 317-6934 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The proposed regulations that are the subject of this correction are under sections 446, 954 and 988 of the Internal Revenue Code.

Need for Correction

As published, the proposed regulations contain errors which may prove to be misleading and need to be clarified.

Correction of Publication

Accordingly, the proposed regulations (REG-119514-15) that are the subject of FR Doc. 2017-27320 are corrected as follows:

On page 60138, in the preamble, first column, the first full paragraph is corrected to read:

“Although the borrowing and lending in the same nonfunctional currency are economically offsetting, section 475 creates the potential for a mismatch of gains and losses for a treasury center CFC. If the treasury center CFC qualifies as a dealer under section 475, for example because it regularly purchases debt from related CFCs in the ordinary course of a trade or business, the treasury center CFC generally must use a mark-to-market method of accounting for its securities. See section 475 and §1.475(c)-1(a)(3)(i). However, §1.475(c)-2(a)(2) provides that a dealer’s own issued debt liabilities are not securities for purposes of section 475. Consequently, a treasury center CFC that marks to market its assets but not its liabilities may recognize any offsetting foreign currency gains and losses in different taxable years. To avoid this mismatch, taxpayers have taken positions that match a treasury center CFC’s foreign currency gains and losses under a variety of theories. No inference is intended in these proposed regulations as to whether these positions are permissible in the years prior to the application of these proposed regulations.”

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